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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/400,708	09/21/1999	MICHAEL L. GOUGH	NEO1P018	3709
7590	03/13/2006		EXAMINER	
PERKINS COIE LLP 101 JEFFERSON DRIVE MENLO PARK, CA 94025-1114			VU, THONG H	
			ART UNIT	PAPER NUMBER
			2142	
			DATE MAILED: 03/13/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/400,708	GOUGH, MICHAEL L.
	Examiner Thong H. Vu	Art Unit 2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 February 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

1. Claims 1-3,5-8,11-22 are pending. Claims 4,9 and 10 are canceled. Claims 1-3,5-8,11-22 have been renumbered as 1-19.

***Response to Amendment***

2. Applicant's arguments, see pages 11-15, filed 2/15/06, with respect to the rejection(s) of claim(s) 1-19 under Shaffer have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Shaffer.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-19 are rejected under 35 U.S.C. § 103 as being unpatentable over Shaffer et al [Shaffer, 2002/0059347 A1] in view of Tabuchi [5,950,215].
4. As per claim 1, Shaffer discloses a method for executing an application program associated with an electronic message, comprising:

after an electronic message is received over a network is selected by  
automatically retrieving code from a server over a network after an electronic message  
received over the network is opened for viewing by a user, wherein the application  
program is received, at least in part, over the network after the receipt of the electronic  
message and as the result of the opening by the user of the electronic message

[Shaffer, A system and method for automatically loading an application program associated with an e-mail application attachment file upon reception of the e-mail, the application program may be loaded as soon as the e-mail message itself is opened, abstract];

However Shaffer does not explicitly detail “automatically executing the application program of the electronic message within the context of the electronic message after the initialization thereof

In the same endeavor, Tabuchi taught a related email application is automatically started when the user select an email is set as context information [Tabuchi, col 11 lines 52-63]

Therefore it would be obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of automatically executing the application program of the electronic message within the context of the electronic message as taught by Tabuchi into the Shaffer's apparatus in order to utilize the email processing. Doing so would provide a user friendly and easy procedure to email user.

5. Claims 12 and 17 contain the similar limitations set forth of method claim 1. Therefore, claims 12,17 are rejected for the similar rationale set forth in claim 1.

6. As per claim 2, Shaffer-Tabuchi disclose the electronic message is opened by the user by clicking on an identifier of the electronic message in an electronic mail browser [Tabuchi, select a container, col 11 lines 52-63].

7. As per claims 3,11,14 Shaffer discloses the application program includes an applet as inherent feature of Web based applications.

8. As per claim 4, Shaffer-Tabuchi disclose the execution of the application program includes a functionality based on the text included with the electronic message as inherent feature of Web based applications.

9. As per claim 5, Shaffer-Tabuchi disclose the execution of the application program includes streaming video as inherent feature of Web based applications.

10. As per claim 6, Shaffer-Tabuchi disclose the execution of the application program includes outputting an advertisement as inherent feature of email application.

11. As per claims 7,13 Shaffer-Tabuchi disclose at least one code segment resides, at least in part, in a browser software as inherent feature of email application.

12. As per claim 8, Shaffer-Tabuchi disclose the execution of the application program includes the ability to send a new electronic message over the network as inherent feature of email application.

13. As per claim 10, Shaffer-Tabuchi disclose the application program includes markup language which calls an object-oriented computer language as a design choice of other suitable network access software.

14. As per claims 9,15,16,18,19 Shaffer-Tabuchi disclose the application develops at least one of pictorial, graphic, animated, video and audio display distributed as inherent feature of Web based applications.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thong Vu*, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 6:00AM- 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Andrew Caldwell*, can be reached at (571) 272-3868. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval PAIR system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Thong Vu*  
*Primary Examiner*  
*Art Unit 2142*

